

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3755 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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CHHATRASINH ABHESINH CHAUHAN

Versus

GUJARAT WATER RESOURCES DEVELOPMENT CORPORATION & ANR.

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Appearance:

MR KM SETH for Petitioner

MR None present for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/09/96

#### ORAL JUDGMENT

The petitioner, an operator of Gujarat Water Resources Development Board, filed this petition before this Court challenging thereunder the order dated 4.6.83 of the respondent under which he was ordered to be reinstated back in services after completion of departmental inquiry from suspension but one grade increment was ordered to be withhold permanently and it

was further ordered that Rs.8783.70 be recovered from the petitioner and suspension allowance be adjusted towards recovery and Rs.100/- p.m. be deducted from the salary of the petitioner.

2. The electric meter which was found to be not properly fixed, on the Tubewell on which the petitioner was posted, and as such, the Gujarat Electricity Board has given average bill of Rs.17,142.30 to the respondent and the respondent-Board paid the said bill. The respondent incurred aforesaid loss because of petitioner and as such recovery of that amount was ordered to be made from him at the rate of Rs.50/- p.m. The petitioner has raised protest against the said order. He was placed under suspension under the order dated 29.3.82. He was given chargesheet vide memo dated 14th May 1982. In the meanwhile the petitioner has come up before this Court at that stage by filing Special Civil Application No.4637 of 1982 which has been withdrawn by the petitioner as it is evident from annexure 'F', dated 3.2.83. The counsel who was appearing for the respondent herein has given out that recovery of the amount at the rate of Rs.50/- p.m. shall not be given effect and inquiry shall be completed expeditiously. The petitioner, on the aforesaid statement has not pressed the aforesaid writ petition. It is not in dispute that in the aforesaid writ petition, the petitioner also challenged the order under which he was placed under suspension. After holding inquiry, the impugned order has been passed.

3. The learned counsel for the petitioner made twofold submissions in the present case. Firstly, he contended that the same officer has made the order of suspension and also held inquiry and passed the order of punishment which is against the principles of natural justice. It has next been contended that some average bills have been given in connection with other Tubewells of the respondent, but no action of recovery has been effected from the operators who were posted on those Tubewells. A reference in this respect has been made to cases of operators, namely Shri Motiji Galabji, posted at Tubewell No.6, village Sonarda, where the amount was of Rs.1750/-, and the case of Shri Balaji Punjabhai, posted at village Vadodara, where the bill was of Rs.32,000/-. third citation has been given in the case of Shri Deepsingh Amarsingh, posted at Tubewell No.18, at village Jethipura, where the amount was of Rs.11,000/-. The learned counsel for the petitioner further contended that discrimination has been made by the respondent in similar matters.

4. I do not find substance in any of the contentions raised by the learned counsel for the petitioner. The learned counsel for the petitioner does not dispute that the authority who made order of suspension, given a chargesheet and ultimately passed the order of penalty, was disciplinary authority of the petitioner. The disciplinary authority has all the powers to make inquiry itself or to entrust inquiry to some other officer. The learned counsel for the petitioner has not cited any provision from any Act or Rule before this Court under which the disciplinary authority was not competent to hold inquiry itself. The first contention of the learned counsel for the petitioner is devoid of any substance. The second contention of the counsel for the petitioner that in the same type of matters the respondent has not taken any action against defaulting operators and as such it is a case of discrimination is also devoid of merits. The averments regarding plea of discrimination have been made by the petitioner in para 24 of the writ petition. The respondent-Board has replied those averments and it failed to give any satisfactory reply to the same. The action of the respondents not to take action against those persons is not a correct action. In case, because of negligence or default or for some other reason of Pump Operator, the Board has been put to monetary loss, the person concerned should have been dealt with severely and no indulgence could have been shown. But the plea of discrimination on the grounds as raised by the learned counsel for the petitioner is not tenable. Discrimination on the basis of illegal and unwarranted action or omission or inaction of authorities will not confer any benefit upon the petitioner. A reference in this respect may have to the decision of Supreme Court in the case of Chandigarh Administration v. Jagjit Singh, reported in AIR 1995 SC 705 and decision of this Court in the case of Bhanmati Tapubhai Muliya v.State of Gujarat, Principal Government Industrial Institute, reported in 1995(2) GLH 228. However, it is made clear that in case the matter of the persons, reference of which has been made in the writ petition is identical to the case of the petitioner, the Board shall take necessary action against those persons also. Though on this ground plea of discrimination may not be available to the petitioner, but it certainly gives pain to a person that the Board is making different approach in identical matters.

5. In the result, this Special Civil Application fails and the same is dismissed. Rule is discharged. No order as to costs.

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(sunil)